

Remarks

Reconsideration of the application and allowance of all pending claims are respectfully requested. Claims 1-9, 14-23 & 29-37 remain pending.

Applicant has herein amended the specification to provide updated application and patent number information for the cross-referenced related applications and patents. Entrance of these amendments is respectfully requested.

Applicant gratefully acknowledges the indication of allowability of claims 8 & 21 if rewritten into independent form including all the limitations of the base claim and any intervening claims. Presently, these dependent claims have not been rewritten into independent form since the amended independent claim from which they ultimately depend are believed to be in condition for allowance for the reasons stated below.

By this paper, independent claims 1, 14, 23 & 29 are amended to more particularly point and distinctly claim certain aspects of the present invention. Although Applicant believes that these aspects were clear initially, the claim amendments are submitted in a *bona fide* attempt to further prosecution of this application. Support for the amended language can be found throughout the application as filed. For example, reference paragraphs [0156] – [0160] of the application, as well as FIG. 9. No new matter is added to the application by any amendment presented.

Further, independent claim 29 is amended herein to replace “machine” with “computer” as suggested in the Office Action. Based upon this amendment, withdrawal of the 35 U.S.C. §101 rejection to claims 29-37 is respectfully requested. Additionally, claims 10-13, 24-28 & 38-41 are canceled herein without prejudice. These claims were non-elected subject matter responsive to the Restriction Requirement contained in the paper mailed November 1, 2004.

In the Office Action, claims 1-3, 5-7, 9, 14-16, 18-20, 22, 23, 29-31, 33-35 & 37 were rejected under 35 U.S.C. §102(b) as being anticipated by Bressoud et al. (U.S. Patent No. 5,802,265; hereinafter Bressoud), and claims 1-6, 9, 14-19, 22, 23, 29-34 & 37 were rejected under 35 U.S.C. §102(e) as being anticipated by Casella et al. (U.S. Patent No. 6,219,803; hereinafter Casella). Each of these rejections is respectfully, but most strenuously, traversed to

any extent deemed applicable to the claims presented herewith, and reconsideration thereof is requested.

In one aspect, Applicant's invention is directed to a technique for controlling process flow between a test tool and an operating system processing an event (e.g., claims 1, 14, 23 & 29). This technique includes controlling an event around operating system processing thereof. The controlling includes facilitating intercepting of the event by a test tool after processing thereof by the operating system and before return to an internal operating system invoker of the operating system event processing. The invoker is other than the test tool intercepting the event. Thus, in Applicant's recited technique, a facility is provided specifically for allowing a test tool to intercept an operating system event before return thereof to an internal operating system invoker of the operating system event processing. No similar functionality is believed taught or suggested by the art of record.

It is well settled that there is no anticipation of a claim unless a single prior art reference discloses: (1) all the same elements of the claimed invention; (2) found in the same situation as the claimed invention; (3) united in the same way as the claimed invention; and (4) in order to perform the identical function as the claimed invention. In this instance, both Bressoud and Casella fail to disclose certain functionality of Applicant's invention as recited in independent claims 1, 14, 23 & 29, as well as various dependent claims, and as a result, do not anticipate (or even render obvious) Applicant's invention.

Bressoud discloses a transparent fault-tolerant computer system wherein an object-code editor locates calls to the operating system and loops in the application program and inserts instruction sequences that enable the replica supervisor to intercept the calls to the operating system, results are returned by the operating system as a result of the calls and asynchronous events delivered by the operating system to the replica. A backup replica supervisor is similarly interposed between an operating system and a backup replica of the application program being executed by a backup processor. (See Abstract of Bressoud.)

In contrast, in Applicant's independent claims, a facility is provided for intercepting an event by a test tool after processing thereof by the operating system and before return to an internal operating system invoker of the operating system event processing. In Applicant's invention, the operating system event processing is initiated by an internal operating system

invoker. Notwithstanding that the operating system event is invoked internally, Applicant's facility provides an ability to intercept the event by a test tool after processing thereof by the operating system.

A careful reading of Bressoud fails to uncover any discussion of an event being initiated by an internal operating system invoker. Rather, the patent expressly teaches otherwise by indicating that the supervisor is able to intercept calls to the operating system and results returned by the operating system. A careful reading of Bressoud indicates that these are external calls to the operating system and results returned to the external calling program. Further, a careful reading of Bressoud fails to uncover any teaching or suggestion of operating system event processing which is initiated by an internal operating system invoker *per se*. In contrast, Applicant's invention provides a facility to intercept the internal operating system events that would otherwise be unavailable to a test tool external to the operating system. Applicant's independent claims recite that the internal operating system invoker is other than the test tool. For at least these reasons, Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection to the independent claims presented based upon Bressoud.

Similarly, Casella fails to teach or suggest a facility for intercepting an internal operating system event after processing thereof and before return to an internal operating system invoker of the operating system event processing. Casella describes a software development tool which permits capture, modification and recording of transactional messages that are transmitted between a client and a server in a computer network. A proxy is employed to capture messages such as requests and responses that are in transit between the client and the server. (See Abstract of Casella.)

Applicant respectfully submits that a careful reading of Casella fails to uncover any teaching or suggestion of a facility for intercepting of an event by a test tool after processing thereof by the operating system and before return to an operating system invoker of the operating system event processing, wherein the invoker is other than the test tool. The client and server discussion in Casella is clearly at a different level and a different environment than that recited by Applicant's invention.

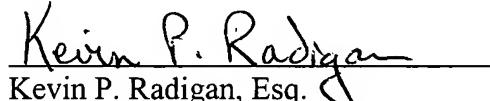
For the above reasons, Applicant respectfully submits that the Bressoud and Casella patent teachings are simply not relevant to the facility provided by his claimed invention. Neither patent teaches or suggests the provision of a facility for intercepting an event around operating system processing thereof wherein the event is intercepted by a test tool after processing thereof by the operating system and before return to an internal operating system invoker of the operating system event processing, wherein the invoker is other than the test tool. Thus, Applicant respectfully requests withdrawal of the stated rejections as applied against the independent claims.

The dependent claims are believed allowable for the same reasons as the independent claims, as well as for their own additional characterizations. For example, claims 6, 9, 19, 22, 34 & 37 further characterize the event as either an operating system managed event or as an internal operating system event having no external operating system call. Clearly, the events calls and results discussion of Bressoud and Casella are outside of an operating system and therefore are not relevant to Applicant's recited invention of these claims.

For the above reasons, Applicant respectfully submits that all claims are in condition for allowance and such action is respectfully requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,



Kevin P. Radigan, Esq.
Attorney for Applicant
Registration No.: 31,789

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HESLIN ROTHENBERG FARLEY & MESITI P.C.
5 Columbia Circle
Albany, New York 12203-5160
Telephone: (518) 452-5600
Facsimile: (518) 452-5579